IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Examiner	: Jamie R. Kucab		
Docket No.	: 102980.58649US2		
Title	: Authentication and Tracking System		

RESPONSE TO LACK OF UNITY OF INVENTION

Commissioner for Patents
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Sir:

In response to the communication dated December 16, 2009, holding a lack of unity of invention of the pending claims, Applicant elects, <u>with traverse</u>, Group II, including claims 21-31, drawn to watermarking and XML.

Applicant reserves the right to file a divisional application directed toward the non-elected claims.

Applicant traverses the lack of unity finding because it is based on features of dependent claims and not independent claims. It is clear that "Unity of invention has to be considered in the first place *only in relation to the independent claims* in an international application and *not the dependent claims*."[1] The alleged claim groups largely relate to features in dependent claims, and not in the independent claims.

For example, Group I, which includes claims 1-20 and 37-45, is alleged to be drawn to "authentication and serial number validation." As clearly illustrated in claims 1 and 3 (reproduced below), claim 1 is not limited to serial number validation, and this feature does not appear until dependent claim 3.

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[1] M.P.E.P. § 1850 II. (Emphasis added).

1.   A method for authenticating one or more instantiations of a product following initial distribution comprising:

providing a code string model having finite parameters, the finite parameters used to define a total quantity of unique code strings that can be derived from the code string model;

providing a subset of unique code strings as a quantity of unique code strings selected for use from the total quantity of unique code strings, the subset of unique code strings being at least one hundred times smaller than the total quantity of unique code strings;

defining a maximum probability of guessing any of the subset of unique code strings;

verifying that an actual probability of guessing any of the subset of unique code strings is less than the maximum probability of guessing any of the subset of unique code strings;

randomly generating the subset of unique code strings from the total quantity of unique code strings;

providing a secure server having a database used to store the subset of unique code strings;

storing the subset of unique code strings within the database on the secure server;

marking each of a quantity of the instantiations with one of the code strings of the subset;
distributing the marked instantiations along a chain of commerce; and

validating the authenticity of one of the marked instantiations during or following distribution, the marked instantiation validated through exchange of transmitted signals between the secure server and a communication device,

wherein the communication device receives entry of the unique code string and transmits an inquiry signal containing the unique code string to the secure server, and

wherein the secure server receives the inquiry signal to reveal the scanned unique code string, searches the database thereon to validate the authenticity of the unique code string, and

transmits a return signal to the field reader regarding validation of the authenticity of the marked instantiation.

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3.   The method of claim 1, wherein the code string model providing step further includes ***defining the code string model to be a serial number***, wherein the finite parameters include having at least seven characters and having each of the characters be defined alphanumerically.

Similarly, claims 21-31 are alleged to correspond to "watermarking and XML." As clearly illustrated in claims 21, 27 and 31 (reproduced below), independent claim 21 is not limited to watermarking and XML, and these features appear in the first instance in claims 27 and 31, respectively.

21.   A method for authenticating and tracking one or more instantiations of a product following initial distribution comprising:
        providing a code string model having finite parameters, the finite parameters used to define a total quantity of unique code strings that can be derived from the code string model;

        providing a subset of unique code strings as a quantity of unique code strings selected for use from the total quantity of unique code strings, the subset of unique code strings being at least one hundred times smaller than the total quantity of unique code strings;

        defining a maximum probability of guessing any of the subset of unique code strings;

        verifying that an actual probability of guessing any of the subset of unique code strings is less than the maximum probability of guessing any of the subset of unique code strings;

        randomly generating the subset of unique code strings from the total quantity of unique code strings;

        associating attributes to one or more of the subset of unique code strings, the attributes defining characteristics regarding the instantiations to which the one or more of the subset of unique code strings will be marked on or affixed to;

providing a secure server having a database used to store the subset of unique code strings;

storing the subset of unique code strings within the database on the secure server;

marking each of a quantity of the instantiations with one of the code strings of the subset;

distributing the marked instantiations along a chain of commerce; and

validating the authenticity of one of the marked instantiations during distribution, the marked instantiation validated through exchange of transmitted signals between the secure server and a communication device,

wherein the communication device receives an entry of the unique code string and transmits an inquiry signal containing the unique code string to the secure server, and

wherein the secure server receives the inquiry signal to reveal the scanned unique code string, searches the database thereon to validate the authenticity of the unique code string, and transmits a return signal to the field reader regarding validation of the authenticity of the marked instantiation.

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27.　　The method of claim 21, wherein the marking instantiations step comprises *using the process of watermarking*. [2]

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31.　　The method of claim 30, wherein the schema is of *an XML format*.[3]

Moreover, claims 46-49 are alleged to correspond to "serial numbers with expiration dates." As clearly illustrated in claims 46 and 48 (reproduced below),

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[2] Emphasis added.
[3] Emphasis added.

independent claim 46 is not limited to using serial numbers with expiration dates and this feature first appears in dependent claim 48.

    46.   A   system   for   authenticating   one   or   more instantiations of a product following initial distribution comprising:

        a subset of a total quantity of unique code strings derived from a code string model, the code string model having finite parameters of code string length and code string character types, the finite parameters defining the total quantity of unique code strings, the subset of unique code strings being at least one hundred times smaller than the total quantity of unique code strings, each of the subset of unique code strings marked on one of the instantiations;

        a secure server having a database storing the subset of codes therein;

        a field reader that scans one of the subset of unique code strings, encodes the unique code string into a machine-readable format, and transmits an inquiry signal containing the encoded unique code string to the secure server,

        wherein the secure server decodes the inquiry signals, searches the database thereon to validate the authenticity of the unique code string, and transmits a return signal to the field reader regarding   validation   of   the   authenticity   of   the   marked instantiations; and

    a network linking the secure server to the field reader.

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    48.   The system of claim 46, wherein the unique code strings   have   certain   ***expiration   dates***   associated   therewith.[4]

Because the holding of lack of unity of invention is based on features of dependent claims and not independent claims, the holding is improper and should be withdrawn.

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[4] Emphasis added.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 102980.58649US2).

Respectfully submitted,

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